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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/739,222

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Kentaro Yoshimura

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EXAMINER

NGUYEN, TAN QUANG

ART UNIT

PAPER NUMBER

3661

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/739,222	<b>Applicant(s)</b> YOSHIMURA ET AL.	
	<b>Examiner</b> TAN Q. NGUYEN	<b>Art Unit</b> 3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAIL ACTION**

### ***Notice to Applicant(s)***

1. This office action is responsive to the amendment filed on December 14, 2007. Claims 8-13 have been amended. Claims 8-14 and 17 are still pending. Claims 1-7, 15 and 16 were withdrawn as to non-elected claims as from the previous action.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
3. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. As per claim 8, on lines 2 and 3, the phrase "a plurality of control operation means described as a function in the source code of the program" is unclear as to what the function is and what source code of the program is. Also, "the program" has no antecedent basis. Further, the phrase "reference data used for calculation by said control operation being argument of the function" on line 3 and 4 is also unclear as to what the reference data is and what an argument of the function is. The phrase "said control operation" should be --said control operation means-- to avoid the lack of antecedent basis. Also, the phrase "being a return value of the function or the argument of the function which points the address" is not defined properly. On lines 7 and 8, the phrases "the specified information" and "the function name" have no antecedent basis. Moreover, the phrase "manages the hang-over of the control data" is unclear what the hang over is.
5. The remaining claims (9-14 and 17), not specifically mentioned, are rejected for incorporating the defects from their respective parent claims by dependency.

***Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 8-14 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-14 and 17 drawn to non-functional descriptive material. MPEP 2106.IV.B.1(a) (Nonfunctional Descriptive Material) states:

“Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. 101.”

8. Also, the claimed invention merely manipulates data or an abstract idea, or merely solves a mathematical problem without a limitation to a practical application in the technological arts. MPEP 2106.IV.B.2(a) (Statutory Product Claims) states:

“A claim limited to a ... manufacture, which has a practical application in the technological arts, is statutory.”

9. In order for a claimed invention to accomplish a practical application, it must produce a “useful, concrete and tangible result” *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02 (see MPEP 2106.II.A). Currently, the claim does not recite a practical application. In order for the claimed product to produce a “useful, concrete and tangible” result, recitation of one or more of the following elements is suggested:

- . The manipulation of data that represents a physical object or activity transformed from outside the computer (MPEP 2106 IVB2(b)(i)).
- . A physical transformations outside the computer, for example in the form of pre or post computer processing activity (MPEP 2106 IVB2(b)(i)).
- . A direct recitation of a practical application in the technological arts (MPEP 2106 IVB2(b)(ii)).

### ***Conclusion***

10. Claims 8-14 and 17 are rejected. Claims 1-7, 15 and 16 were withdrawn as non-elected claims.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tan Q. Nguyen, whose telephone number is

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(571) 272-6966. The examiner can normally be reached on Monday-Thursday from 5:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (571) 272-6956.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to the Official Fax Center: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tqn  
February 18, 2008

**/TAN QUANG NGUYEN/**  
*Primary Examiner*  
*Art Unit 3661*